

3. Chapter 681 of Title 17, Hawaii Administrative Rules, entitled "Issuance of Benefits" is amended and compiled to read as follows:

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6 [FAMILY AND ADULT SERVICES DIVISION]
BENEFIT, EMPLOYMENT AND SUPPORT SERVICES DIVISION

CHAPTER 681

ISSUANCE OF BENEFITS

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Historical Note: This chapter is based substantially
 on sections 17-626-3, 17-626-4, 17-626-4.1, 17-626-4.2,
 17-626-4.3, 17-626-5, 17-626-5, 17-626-6, 17-626-7, 17-
 626-7.1, 17-626-20, 17-626-21, 17-626-22, 17-626-23
 [Eff 7/19/82; am 11/16/82; am 2/15/83; am 6/6/83; am

11/12/83; am 12/24/84; am 8/29/85; am 5/2/87; am 8/15/87; am 11/9/87; am 2/11/91; am 6/29/91; R 3/19/93] §§17-638-21, 17-638-22, 17-638-23, 17-638-24, 17-638-25, 17-638-26, 17-638-27, 17-638-41, 17-638-42 [Eff 7/19/82; am 7/1/83; am 1/30/87; R 3/19/93] §§17-715-2; 17-715-8 [Eff 7/19/82; am 10/1/83; am 1/19/84; am 8/16/86; am 12/30/88; am 6/1/89; am 10/6/89; am 12/21/89; am 8/30/91; R 3/19/93] §§17-716-2, 17-716-55, 17-716-56 [Eff 7/19/82; am 4/1/83; am 10/1/83; am 7/23/84; am 3/1/85; am 8/16/86; am 12/27/86; am 10/26/87; am 12/30/88; am 7/24/89; am 10/19/89; am 7/20/91; am 8/30/91; am 1/27/92; R 3/19/93] §§17-719-2, 17-719-6, 17-719-7, 17-719-28, 17-719-29, 17-719-30, 17-719-31, 17-719-32, 17-719-33, 17-719-34 [Eff 7/19/82; am 10/1/83; am 6/8/84; am 7/23/84; am 3/1/85; am 9/2/86; am 12/27/86; am 5/28/87; am 8/31/87; am 5/4/89; am 7/24/89; am 10/6/89; am 8/25/90; R 3/19/93] §§17-742-6, 17-742-7 [Eff 7/19/82; am 8/23/84; R 3/19/93]

SUBCHAPTER 1

FINANCIAL ASSISTANCE REQUIREMENTS

§17-681-1 Purpose. The purpose of this subchapter is to establish the [methods of issuing, replacing, and canceling warrants and requirements for issuing] method of issuing cash benefits under the financial assistance programs. [Eff 3/19/93; am and comp] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-681-2 General requirements. (a) An individual shall receive financial assistance under one financial assistance program.

(b) An individual may be a non-needy payee in another financial assistance case.

(c) Financial assistance paid by the department shall not be subject to assignment, garnishment, or attachment.

(d) Financial assistance [payments] benefits shall be repaid to the department when:

- (1) State loans are provided to applicants of SSI under subchapter 4 who are approved for SSI;
- (2) Real property liens are obtained under chapter 17-675;
- (3) Overpayments occur and are collectible under chapters 17-606 and 17-683; or
- (4) Claims are filed against the estate of a former recipient under chapter 17-605.

(e) The department shall not direct the manner in which the applicant or recipient plans, budgets or spends the financial assistance [payment] benefit except in cases of money mismanagement or sanctions in which a protective payee is designated. [Eff 3/19/93; am and comp] (Auth: HRS §346-14) (Imp: HRS §§346-33 to 36; 45 C.F.R. §§233.10, 233.20, 234.60)

§17-681-3 Methods of [payment.] issuance. (a) Financial assistance [payments] benefits to eligible persons shall be [paid] issued in the form of [a state warrant,] an EBT card, direct deposit, protective payment, or imprest fund check.

- (1) The general method of [payment] issuance shall be by [regular state warrant to] EBT card or direct deposit into the bank account of the eligible recipient payee, legally appointed guardian of the recipient, or non-needy payee.
- (2) The following individuals may be designated as payee for the monthly financial [payment:] benefit:
 - (A) An eligible adult in a one-member family;
 - (B) One of the eligible adults in a family with two or more eligible adults;
 - (C) A parent or relative in a family consisting of adults and children;
 - (D) A non-needy individual living in the household of eligible welfare recipients;
 - (E) An individual other than a specified relative in an emergency situation that

[deprives] will deprive the TANF child from receiving [AFDC of] the required care of the parent or relative. The payee shall be changed to the parent or relative at the termination of the emergency situation; or

- (F) The eligible minor who has a separate [AFDC] TANF or state AABD case if:
 - (i) The minor is living independently and is able to manage the financial assistance payment; or
 - (ii) The parents or specified relative with whom the minor is living agrees that the eligible minor shall be the payee.

(b) The [income maintenance] eligibility worker shall determine if an individual is in need of protection or if the need for a legal guardian is indicated in subsection (c).

- (1) Referral to an agency for assistance with financial planning and money management may be made when information indicates that the individual's ability to manage the individual's own financial affairs is highly questionable and the individual is not receiving follow-up services from an agency; and
- (2) All referrals shall be made with the full knowledge and understanding of the adult recipient.

(c) The [income maintenance] eligibility worker, with supervisory approval, shall determine whether money mismanagement necessitates protective payment. Money mismanagement occurs when:

- (1) The recipient demonstrates continued inability to plan and budget necessary expenditures for the assistance period;
- (2) There is continued evidence from the [income maintenance] eligibility worker's observation, community complaints, medical or psychiatric reports, or social service worker reports that the children or recipient are not properly fed or clothed and that expenditures for the children or recipient

- are made in such a way as to threaten their chances for healthy growth and development;
- (3) There is persistent and deliberate failure by the recipient to meet obligations for rent, food, school supplies, and other essentials; or
 - (4) There are repeated evictions of the recipient or incurrance of debts by the recipient with attachments or levies against the family's income or assets.

(d) A recipient determined to be in need of a protective payee because of money mismanagement shall have the recipient's situation reviewed as frequently as indicated by the individual's or family's circumstances, but not less frequently than every twelve months. The review shall be made to:

- (1) Determine the continued need for protective payments; and
- (2) Ensure that the protective payee is carrying out the responsibilities of a protective payee. [Eff 3/19/93; am and comp] (Auth: HRS §§346-14, 346-53) (Imp: HRS §§346-38, 45 C.F.R. §§233.90, 234.11, 234.60, 234.70)

§17-681-4 [Delivery of payment.] Issuance of benefits. [(a) Financial assistance warrants shall be mailed directly to the mailing address designated by the payee, except that the department shall mail protective payments to the protective payee and vendor payments to the appropriate vendor.

(b) No FASD office shall be used as the mailing address for recipient mail.

(c) Financial] (a) Monthly financial assistance [payments] benefits to eligible recipients who have timely complied with the program's requirements shall be [made once a] issued within the benefit month.

- [(1)](b) The financial assistance [payment] benefit shall be [mailed] available not later than the fifth work day of the [payment] benefit month to [eligible] recipients [whose

completed monthly eligibility reports are received within the timely period specified in chapter 17-650 and to those recipients not subject to monthly reporting.] who have met all eligibility requirements.

[(2)](c) The financial assistance [payment] benefit may be delayed until not later than the last day of the [payment] benefit month to eligible recipients who submit completed [monthly eligibility] six month reports after the timely period specified in chapter 17-650 but within the ten day period to submit [or complete an incomplete monthly eligibility] a completed six month report.

[(d)] A financial assistance warrant returned to the department by the post office as undeliverable may be forwarded to the recipient's new address or released to the recipient by authorized department personnel.

(e) A financial assistance warrant returned to the department which cannot be forwarded to the recipient due to the lack of a current address shall be canceled within thirty days from the date of the warrant.] [Eff 3/19/93; am and comp]
(Auth: HRS §346-14) (Imp: HRS §346-14)

§17-681-5 REPEALED [R]

§17-681-6 REPEALED [R]

§17-681-7 REPEALED [R]

§17-681-8 Protective payment. (a) [Payment] Issuance of benefits shall be made to the protective payee under[:

- (1) Section] section 17-681-3[, money mismanagement;
- (2) Chapter 17-794.1, First-to-Work program sanctions; or
- (3) Chapter 17-653, child support sanctions].

(b) The selection of the protective payee shall be made by the recipient or with the recipient's participation or consent. The individual who is selected as the protective payee shall:

- (1) Demonstrate a sincere interest and concern in the recipient's general welfare as evidenced by regular visits and efforts to help at times of crisis;
- (2) Be capable of helping the recipient properly receive and manage the recipient's income, and shall supervise the recipient's use of the financial assistance [payment;] benefit;
- (3) Be capable of working closely with the recipient and assisting to teach basic home management skills, including ways to cope with everyday problems;
- (4) Not be a vendor of goods or service dealing directly with the recipient;
- (5) Not be an administrator, [income maintenance] eligibility worker, or other employee of the department dealing directly with the fiscal processes of the recipient's assistance grant;
- (6) Be reliable and of good character;
- (7) Share in the responsibility with the department for the development and evaluation of plans to improve the recipient's capacity and capability to handle money; and
- (8) Respect the recipient's right to confidentiality. The department shall inform the protective payee of the recipient's right to confidentiality and shall limit the information shared with the payee to those facts about the family that are pertinent to fulfilling the payee's responsibility.

(c) [If, after making all reasonable efforts, the department is unable to locate an appropriate individual to whom protective payments can be made in situations involving a First-to-Work or child support sanction, the department shall continue to make payments on behalf of the remaining members of the assistance unit to the sanctioned caretaker relative.

(d) In case situations involving money mismanagement, [payment] issuance of benefits to a

protective payee shall not exceed two years and shall be terminated when:

- (1) The [income maintenance] eligibility worker, with supervisory approval, determines that the recipient or caretaker is able to manage the funds in the best interest of the recipient; or
- (2) Judicial appointment of a guardian or other legal representative has been approved or denied after action for legal adjudication has been sought by the department or any other interested party, because it appears that the need for protective payments would continue beyond two years.

[(e)] (d) The recipient shall be informed of the recipient's right to appeal and have an administrative hearing on the determination of the protective payee plan or the payee selected.

[(f)] (e) A review shall be made as frequently as indicated by the individual's or family's circumstances, but not less frequently than every twelve months to:

- (1) Determine the continued need for protective payment; and
- (2) Ensure that the protective payee is carrying out the responsibilities of a protective payee. [Eff 3/19/93; am 1/25/97; am 1/17/08; am and comp] (Auth: HRS §§346-14, 346-53) (Imp: HRS §346-38; 45 C.F.R. §§233.90, 234.11, 234.60, 234.70)

§17-681-9 Imprest fund issuance. (a) An imprest fund means those state funds in the [family and adult services] benefit, employment and support services division's designated checking accounts which the division's [income maintenance] eligibility units use to pay emergency financial assistance benefits.

(b) The imprest fund shall be used to pay eligible applicants and recipients without any currently available income or assets and whose immediate needs cannot be met through the usual payment process. Situations of immediate need shall be limited to the following situations:

- (1) An emergency situation exists under chapter 17-647;
 - (2) The individual is eligible for natural disaster assistance under chapter 17-678;
 - (3) The individual requires immediate shelter deposit or utility deposit to obtain or maintain the functions of everyday living and is eligible for a deposit under chapter 17-678; or
 - (4) The recipient must report to a Temporary Labor Force assignment within five days after certification.
- (c) A payment issued through the imprest fund shall not exceed the sum of:
- (1) The monthly assistance allowance to which the individual or family is entitled for the month under chapter 17-678; and
 - (2) The cost of the shelter and utility deposits as allowed under chapter 17-678.
- (d) The amount of assistance payment authorized on each imprest check shall not exceed \$750.
- (e) The total amount of payments issued through the imprest fund and other methods of disbursement shall not exceed the amount the individual is entitled to receive.
- (f) The [income maintenance] eligibility worker's supervisor, or designee in the supervisor's absence shall authorize, where justified, the worker's request to use the imprest fund. [Eff 3/19/93; am and comp] (Auth: HRS §346-14) (Imp: HRS §§40-85, 346-53)

§§17-681-10 to 17-681-15 (Reserved)

SUBCHAPTER 2

MEDICAL ASSISTANCE REQUIREMENTS

§17-681-16 REPEALED. [R 8/01/94]

§17-681-17 REPEALED. [R 8/01/94]

§17-681-18 REPEALED. [R 8/01/94]

§§17-681-19 to 17-681-23 (Reserved).

SUBCHAPTER 3

[FOOD STAMP] SNAP REQUIREMENTS

§17-681-24 Purpose. The purpose of this subchapter is to establish the methods [of issuing, replacing, and canceling benefits] and [the] requirements for issuing benefits under the [food stamp program.] SNAP. [Eff 3/19/93; am and comp] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-681-25 Definitions. As used in this subchapter:

["Authorization to participate (ATP) card" means a document issued to a certified household which indicates the allotment the household is authorized to receive.]

"Authorized representative" means a person designated in writing by the head of the household, the spouse, or other responsible household member, to act on behalf of a household in applying for program benefits, and in [securing and using coupons.] accessing the household's EBT SNAP benefits. An authorized representative also means a private nonprofit organization or institution conducting a drug addiction or alcoholic treatment and rehabilitation center, or a public or private nonprofit group living arrangement whose residents are blind or disabled recipients of benefits under title II or title XVI of the Social Security Act (42 U.S.C. §§401-433; 1381-1383), which will act on behalf of households who reside at the centers in applying for and obtaining [food stamps.] SNAP benefits.

"Certification period" means a definite period of time established by the branch during which the household shall be eligible for program benefits unless notified otherwise through appropriate notification procedures.

["Coupon" means any coupon, stamp, or type of certificate provided for the purchase of eligible food.

"Coupon issuer" means a bank, savings and loan association, or any person, partnership, corporation, organization, political subdivision, or other entity which has been assigned or contracted with by the department to issue coupons to households.]

"Head of household" means the person normally designated as the head by a household or designated as the head by the branch.

["Identification (ID) card" means a card which identifies the bearer as eligible to receive and use food stamps.]

"Recertification" means a redetermination of the household's eligibility to continue to receive program benefits beyond the current certification period.

"Supplemental Nutrition Assistance Program" or "SNAP" means the nutrition assistance program formerly known as the food stamp program". [Eff 3/19/93; am and comp] (Auth: HRS §346-14) (Imp: HRS §346-14; 7 C.F.R. §§273.1, 273.10 (f), 273.14, 274.7)

§17-681-26 Timely issuance of benefits. (a) When an eligible household files a complete [monthly] six month report by the scheduled filing date, the household shall have an opportunity to participate by the normal issuance date for that household.

(b) Eligible applicants shall be provided an opportunity to participate according to the processing standards under chapter 17-647.

(c) An otherwise eligible recipient shall be provided an opportunity to participate by the normal issuance date within a current certification period.

(d) An otherwise eligible recipient shall be provided an opportunity to participate by the normal issuance date in the month following the end of the current certification period. However, the recipient

shall lose the right to uninterrupted benefits when the recipient fails to:

- (1) Submit an application for recertification in a timely manner;
 - (2) Attend any interview scheduled on or after the deadline for timely filing of the application for recertification under chapter 17-648; or
 - (3) Submit all necessary verification within the time provided by the department provided that time elapses after the deadline for filing a timely application for recertification.
- (e) An opportunity to participate shall consist of:
- (1) Providing an applicant or recipient with an [ATP] EBT card; and
 - (2) Having [an issuance facility] a food retailer open and available for the applicant or recipient to [obtain] expend its SNAP allotment. [Eff 3/19/93; am and comp
] (Auth: HRS §346-14)
(Imp: 7 C.F.R. §§273.2(g), 273.14, 273.21)

§17-681-27 Delayed issuance of benefits. (a) When an eligible recipient files a complete [monthly] six month report during the extension period, the department shall provide the recipient with an opportunity to participate not later than ten days after the recipient's normal issuance date.

(b) When an eligible recipient is terminated for failure to file a complete [monthly] six month report files a complete report after the extended filing date but prior to the first day of the month the [food stamp] SNAP assistance is to be terminated, the department shall reinstate the recipient by providing the recipient with an opportunity to participate no later than thirty days after receipt of the completed [monthly] six month report.

(c) When the recipient does not file a complete [monthly] six month report prior to the first day of the month the [food stamp] SNAP assistance is to be terminated, a new application shall be required and the

application processing requirements of chapter 17-647 shall apply.

(d) The department shall take action to provide uninterrupted benefits within the following time standards even if, to meet these standards, the department shall provide an otherwise eligible recipient the opportunity to participate outside the normal issuance date:

- (1) Eligible recipients certified for one month or certified for two months in the second month of the certification period who have met the application for recertification procedures shall be provided an opportunity to participate no later than thirty calendar days after the date the recipient had an opportunity to obtain its last allotment; or
- (2) All other eligible recipients who have met the application for recertification procedures shall receive their benefits as follows:
 - (A) Recipients not determined eligible in sufficient time to provide for issuance by the normal issuance date due to the time period allowed for submitting any missing verification shall receive an opportunity to participate within five working days after the missing verification is submitted; or
 - (B) Recipients which have timely submitted an application for recertification but, due to department error, are not determined eligible in sufficient time to provide for issuance by the recipient's next normal issuance date shall receive an immediate opportunity to participate.

(e) An otherwise eligible recipient who loses the right to uninterrupted benefits under section 17-681-26(d) shall receive benefits within thirty days after the application for recertification is filed.

(f) When the department is unable to provide an otherwise eligible recipient with an opportunity to participate within thirty calendar days after the date the application for recertification is filed due to the

time period allowed for submitting missing verification, the department shall provide the recipient an opportunity to participate within five working days after the recipient supplies the missing verification. [Eff 3/19/93; am and comp] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.14, 273.21)

§17-681-28 REPEALED [R]

§17-681-29 REPEALED [R]

§17-681-30 REPEALED [R]

§17-681-31 REPEALED [R]

§17-681-32 REPEALED [R]

§17-681-33 REPEALED [R]

§17-681-34 REPEALED [R]

§17-681-35 Replacement issuances. (a) Subject to the restrictions in subsections (c), (d) and (e), the branch shall provide replacement issuances to a household when the household reports that food purchased with SNAP benefits was destroyed in a household misfortune.

(b) Where a federal disaster declaration has been issued and the household is eligible for disaster SNAP benefits under the disaster declaration, the household shall not receive both the disaster allotment and a replacement allotment for a misfortune.

(c) Replacement issuances shall be provided only if a household timely reports a loss orally or in writing. The report will be considered timely if it is

made to the branch within ten days of the date food purchased with SNAP benefits is destroyed in a household misfortune.

(d) No limit on the number of replacements shall be placed on the replacement of food purchased with SNAP benefits which was destroyed in a household misfortune.

(e) Except for households certified under 7 CFR replacement issuances shall be provided in the amount of the loss to the household, up to a maximum of one month's allotment, unless the issuance includes restored benefits which shall be replaced up to their full value.

(f) Prior to issuing a replacement, the branch shall obtain from a member of the household a signed statement which:

- (1) Attests to the destruction of the household's food;
- (2) Advises the household that the department will not provide a replacement issuance if the signed statement is not returned within ten days. If the tenth day falls on a weekend or holiday, and the statement is received the day after the weekend or holiday, the branch shall consider the statement timely received; and
- (3) States that the household is aware of the penalties for intentional misrepresentation of the facts, including but not limited to, a charge of perjury for a false claim. The statement shall be retained in the case file.

(g) Replacement issuances shall be provided to households with ten days after report of loss or within two working days of receiving the signed statement required in subsection (f), whichever date is later.

(h) The branch shall deny or delay replacement issuances in cases in which available documentation indicates that the household's request for replacement appears to be fraudulent.

(i) The household shall be informed of its right to a fair hearing to contest the denial or delay of a replacement issuance. Replacements shall not be made while the denial or delay is being appealed.

(j) Upon receiving a request for replacement of an issuance for food destroyed in a household misfortune, the branch shall determine if the issuance was validly issued.

(k) Prior to replacing destroyed food that was purchased with SNAP benefits, the branch shall determine that the destruction occurred in a household misfortune or disaster, such as, but not limited to, a fire or flood. This shall be verified through a collateral contact, documentation from a community agency including, but not limited to, the fire department or the Red Cross, or a home visit.

(1) The branch shall document in the case record:

(1) Each request for replacement;

(2) The date of the request;

(3) The month of the original issuance;

(4) The reason for replacement; and

(5) Whether or not the replacement was provided.

(m) When a request for replacement is made late in an issuance month, the replacement will be issued in the month subsequent to the month in which the original benefit was issued. All replacements shall be posted and reconciled to the month of issuance of the replacement and may be posed to the month of issuance of the original benefit, so that all duplicate transactions may be identified. [Eff and comp

] (Auth: HRS §346-14) (Imp 7 C.F.R. §274.6)

§§17-681-36 to 17-681-39(Reserved).

SUBCHAPTER 4

STATE PARTICIPATION IN THE SSI AND STATE LOAN PROGRAMS

§17-681-40 Purpose. The purpose of this subchapter is to:

- (1) Delineate the manner of state financial participation in the federal supplemental security income (SSI) program; and
- (2) Establish the eligibility requirements and conditions for state loans to applicants for

federal SSI benefits. [Eff 3/19/93; comp
] (Auth: HRS §346-14)
(Imp: HRS §§346-14, 346-51, 346-
52, 346-57)

§17-681-41 State financial participation. (a)
The department may provide financial participation in
the basic federal supplemental security income (SSI)
program.

(b) The amount of the state participation shall
be determined by the director in accordance with the
requirements of the mandatory pass along provisions of
the federal law and the availability of state funds.

(c) The state share, upon a contractual agreement
with the Secretary of Health and Human Services, shall
be administered by the federal Bureau of Supplemental
Security Income through the Social Security
Administration:

- (1) The contractual agreement and the amount of
the state share shall be reviewed every state
fiscal year and shall be amended as
necessary; and
- (2) The contractual agreement shall be made in
accordance with the provisions of Pub. L. No.
94-585, Section 1618 of the Social Security
Act (42 U.S.C. §1382g), as amended. [Eff
3/19/93; comp] (Auth: HRS
§§346-14, 346-53) (Imp: HRS §§346-51, 346-
52)

§17-681-42 Intent of the state loan program for
applicants of SSI. (a) The intent of this loan shall
be to make available moneys for applicants of
supplemental security income who are awaiting the
disposition of the applicant's application or who are
awaiting a decision on the applicant's appeal of an
ineligible disposition by the supplemental security
income (SSI) office.

(b) The loan moneys shall be provided to prevent
hardship for the applicants. [Eff 3/19/93; comp
] (Auth HRS §346-14) (Imp: HRS §346-57)

§17-681-43 Relationship to financial assistance programs. (a) Current recipients or applicants under the GA program who may be potentially eligible for SSI shall be required to apply for federal SSI benefits.

(b) All applicants under the state AABD program who are not current recipients of SSI because of age, blindness, or disability shall be required to apply for federal SSI benefits.

(c) Applicants or recipients under the state funded [AFDC] TANF program who may be potentially eligible for SSI, shall be required to apply for federal SSI benefits.

(d) Upon application for SSI by the GA, AABD or state funded [AFDC] TANF applicant or recipient, the state funded assistance payment shall be converted to a loan status with the department, if the conditions of this subchapter are met.

(e) SSI applicants who are also eligible for federally funded [AFDC] TANF shall be entitled to [AFDC] TANF assistance in lieu of a state loan. [Eff 3/19/93; am 9/26/97; am and comp] (Auth: HRS §346-14) (Imp: HRS §§346-7, 346-14, 346-57)

§17-681-44 Eligibility requirements for receipt of a state loan. A state loan shall be provided to an applicant of supplemental security income if the applicant meets the following requirements:

- (1) The individual shall be eligible for financial assistance under the state funded [AFDC,] TANF, GA or state AABD program;
- (2) The individual shall be an applicant for benefits under the federal supplemental security income program;
- (3) The individual's request for an advance SSI payment shall have been denied or for a determination of presumptive eligibility shall not have been made by the Federal Bureau of Supplemental Security Income; and
- (4) The individual shall agree to the conditions for receipt of a loan as specified in section

17-681-45. [Eff 3/19/93; am 9/26/97; am and
comp] (Auth: HRS §346-14)
(Imp: HRS §346-57)

§17-681-45 Conditions for receipt of a state loan. (a) The individual shall execute a written agreement with the department at the time application for the loan is made.

(b) If the individual fails to inform the department of the individual's application for SSI at the time the SSI application is made, one of the following actions shall be taken when the department becomes aware of the individual's application for SSI:

- (1) If the individual's determination for SSI has not yet been made, the individual shall be required to execute a written agreement retroactive to the date application for SSI was made as a part of the individual's eligibility requirement for state funded [AFDC,] TANF, GA or state AABD and shall be placed on loan status retroactively;
- (2) If the individual has already been found to be ineligible for SSI, the department's [income maintenance] eligibility worker shall document in the individual's case record the facts related to the individual's application for SSI, the determination of ineligibility, and the individual's reasons for not informing the agency; or
- (3) If the individual has already been found eligible for SSI and has received or is expected to receive the retroactive SSI payment, the department shall pursue, as applicable, an overpayment refund or investigation or prosecution of fraud.

(c) The written agreement shall enable the department to receive the retroactive SSI payment directly from the federal government so that the department may obtain reimbursement for the loan.

(d) In the written agreement the individual shall agree to:

- (1) Repay the department from the retroactive SSI payment:

- (A) The exact amount of the loan if the retroactive payment is equal to or more than the amount of the loan; or
- (B) The total amount of the retroactive SSI if the payment is less than the amount of the loan;
- (2) [Inform the department if the denial of eligibility for SSI shall be appealed and to notify the department of the appeal decision and any other subsequent appeal plan and decision.] For a case in which an appeal is pursued, the state loan and all requirements and conditions for the receipt of the loan shall be continued in effect until the individual abandons the appeal process or the individual no longer has any recourse; and
- (3) Be ineligible for an outright state funded [AFDC,] TANF, GA or state AABD payment until such time as the individual is determined categorically ineligible for federal SSI. If the individual appeals the SSI ineligibility decision, the individual shall continue to be ineligible for an outright state funded [AFDC,] TANF, GA or state AABD payment until the appeal process is completed or until the individual has no further recourse[; and] .
- [(4) Agree that the loan shall:
 - (A) Be discharged and no repayment shall be required if the individual's application for federal SSI is denied. If the individual is found ineligible for SSI because of the individual's failure to cooperate with the SSI office to establish the individual's eligibility, the state loan shall not be discharged and repayment shall be required;
 - (B) Bear no interest; and
 - (C) Not exceed the amount of assistance that would be otherwise available to the individual under the GA or state AABD program.] [Eff 3/19/93; am 9/26/97; am and comp] (Auth: HRS §346-14) (Imp: HRS §§346-34, 346-57)

§17-681-46 Termination of a state loan. (a)
A state loan shall be terminated:

- (1) Upon receipt by the department of the retroactive SSI check, and termination shall be retroactive to the first month the SSI benefits were effective; or
- (2) On the date the department is informed by the supplemental security income office that the individual has been determined to be ineligible for SSI payments for reasons other than the individual's failure to cooperate, and termination shall be retroactive to the date the state loan was first effective. If the individual appeals the decision of ineligibility, the state loan shall not be terminated until after the appeal process is terminated or until the individual has no further recourse.

(b) A notice shall be sent to the individual informing the individual of the:

- (1) Amount of the retroactive SSI check;
- (2) Total amount of the state loan;
- (3) Period the state loan covered;
- (4) Amount deducted from the retroactive SSI payment to cover the loan;
- (5) Amount, if any, to which the individual is entitled from the retroactive check; and
- (6) Amount of the loan discharged, if any. [Eff 3/19/93; comp] (Auth: HRS §346-14) (Imp: HRS §§346-14, 346-57)

§§17-681-47 to 17-681-49(Reserved).

SUBCHAPTER 5

ELECTRONIC BENEFIT TRANSFER

§17-681-50 Purpose. The purpose of this subchapter is to establish the methods of issuing and replacing benefits under an EBT system for the employment and child care, financial assistance, and [food stamp] SNAP programs. Where this subchapter

conflicts with other subchapters, this subchapter shall take precedence for households receiving benefits issued by means of electronic benefit transfer. [Eff 8/01/98; am 9/11/03; am and comp] (Auth: HRS §346-14) (Imp: 7 C.F.R. 274.2(a))

§17-681-51 Definitions. As used in this subchapter:

"Acquirer" means a financial institution that may:

- (1) own or operate automated teller machines,
- (2) sign merchant agreements with merchants for the acceptance of the Hawaii EBT card, or
- (3) sign agreements with ATM terminal drivers for the acceptance of the Hawaii EBT card."

"Adjustments" means a credit or debit transaction to correct a system error, correct an inaccurate record of a transaction, or to correct an out-of-balance condition that is identified in the settlement process.

"Alternate payee" means an adult designated by the primary payee to receive an EBT card.

"Automated Clearing House" or "ACH" means the network operated by the Federal Reserve and financial institutions to electronically process and settle funds transfers between financial institutions.

"Automated teller machine" or "ATM" means a machine used to withdraw financial assistance benefits.

"Bank day" means the weekday on which the bank is open for business. It does not include weekends or holidays.

"Calendar day" means the actual day of the month. It includes weekdays, weekends, and holidays.

"Dormant" means the inactive status of an EBT account after ninety days of no debit transaction.

"Cash assistance households" means households receiving cash payments from any of the employment and child care programs as defined in chapters 17-794.1 and 17-798.2 and from any of the financial assistance programs as defined in section 17-600-3, excluding medical assistance, social services, and transportation assistance.

"Electronic benefit transfer system" or "EBT" means a computer-based system in which the financial assistance and [food stamp] SNAP benefit authorization

is received from a central computer through an automated teller machine or point-of-sale device.

"EBT card" means the card issued by the department which will allow the holder to access benefits in an EBT account through an ATM or POS device.

"EBT cash account" means an account or file that is maintained by the EBT contractor on behalf of the household which contains the household's authorized cash or financial assistance benefits.

"EBT [food stamp] SNAP account" means an account or file that is maintained by the EBT contractor on behalf of the household which contains the household's authorized [food stamp] SNAP benefits.

"EBT transaction" means a transaction authorized from either the EBT cash account or EBT [food stamp] SNAP account in which the entire transaction amount debited is from the corresponding EBT account.

"Expunged benefits" means benefits that are reverted back to the State because the household failed to debit their benefits from their EBT account within the required timeframes established by this subchapter.

"Gateway" means a service provided by a network for access to other regional or national networks.

"Hawaii Automated Network of Assistance system" or "HANA" means the computerized eligibility system that is designed to provide on-line client tracking, case management, payment, process automation and computerized report capabilities for line staff and administration for the maintenance of the employment and child care programs as defined in chapters 17-794.1 and 17-798.2

"Hawaii Automated Welfare Information system" or "HAWI" means the computerized eligibility system that is designed to provide on-line client tracking, case management, payment, process automation and computerized report capabilities for line staff and administration for the maintenance of the financial assistance and [food stamp] SNAP programs.

"Host computer" means the computer system that stores, maintains and updates the EBT records and accounts.

"Misdispensement" means the failure of an automated teller machine to dispense out the correct amount of cash.

"Network" means an organization or company that operates computer hardware and software and telecommunication links to enable the interchange of commercial debit transactions.

"Off-line" means a transaction that is processed manually by a merchant because the merchant does not have a direct electronic connection through the Gateway to the EBT system.

"Personal identification number" or "PIN" means a secret number selected by the household to be used with the EBT card to receive benefits.

"Point-of-sale device" or "POS" means a machine in a food store that is used to allow [food stamp] SNAP recipients to purchase food items.

"Primary payee" means the primary information person identified in the Hawaii Automated Welfare Information System.

"Processor" means any company processing transactions on behalf of a financial institution, acquirer, or merchant.

"Provisional credit" means the process by which the EBT account is immediately re-credited pending an audit review by the EBT contractor whenever the system incorrectly debits the household's EBT account due to an electronic malfunction of the system caused by a telecommunication time-out or an error by the Processor.

"Re-presentment" means the process by which the EBT contractor will seek repayment or debit an EBT account when a manual authorization of the transaction is approved by the EBT contractor to the merchant because the EBT host system is down and the transaction authorization is based upon a backup data system. In the event the household's account balance is insufficient to cover the amount of the manual transaction, the EBT contractor may re-present or debit the disallowed transaction from benefits deposited into the household's EBT account in future months.

"Reversal" means the electronic cancellation of a transaction usually due to a system error.

"Surcharge" means a fee deducted from a cardholder's account by a financial institution which owns or operates automated teller machines that accepts the Hawaii EBT card.

"System error" means an error resulting from a malfunction at any point in the redemption process: from the system host computer, to the switch, to the third party processors, store host computer or POS device. [Eff 8/01/98; am 10/18/01; am 9/11/03; am 1/17/08; am and comp] (Auth: HRS §346-14) (Imp: 7 C.F.R. §274.2(a),(g))

§17-681-52 Methods of payment. (a) Financial assistance and employment and child care payments to eligible persons shall be issued in the form of EBT or imprest check.

- (1) The general method of payment shall be by EBT to the eligible primary payee.
 - (2) The money shall be transferred to an EBT account or direct deposited into a financial institution account designated by the primary payee.
 - (3) The EBT account shall be accessed by any individual who has an EBT card and a valid PIN.
 - (A) The household's cash benefits may be accessed through ATMs or through POS devices at retail establishments who are participating in the cash-back option under the EBT program.
 - (B) The department shall provide two free ATM transactions per month and recipients will be assessed a [recipients will be assessed a] transaction fee for all subsequent transactions. The household may also be assessed a surcharge fee, which is unrelated to the transaction fee, on all ATM transactions by the ATM owner.
 - (4) Benefits shall be issued by imprest check if necessary to meet [application emergency processing] requirements as described in [chapter 17-647.] section 17-681-9.
- (b) Occasionally an ATM may misdispense less cash to a recipient than what was requested. The cause of the misdispensement may be due to a system time-out or a problem with the telecommunication line anywhere

between the ATM, the processor, the Gateway or the EBT system. Whenever a recipient experiences a misdispensement at an ATM, the recipient shall:

- (1) Report the error to the EBT customer service to file a trouble ticket;
- (2) Report the problem of the misdispensement to the unit to request a provisional credit; and
- (3) Sign a statement attesting to the misdispensement and provide all the pertinent information, i.e., the date, time, location and the amount of the misdispensement. The client shall also acknowledge that if the audit investigation of the misdispensement proves to be false:

- [(i)] (A) The amount of the provisional credit that was credited into the household's EBT account shall be immediately debited from the household's EBT account;
- [(ii)] (B) If the balance in the household's EBT account is insufficient to cover the amount of the provisional credit, the provisional credit amount shall be debited from the benefits deposited in the next month;
- [(iii)] (C) If no funds are deposited into the EBT account in the next month, or if the department was unable to debit the account before the household accessed the benefits, a claim in the amount equal to the provisional credit amount shall be established against the household; and
- [(iv)] (D) The fraud provisions as specified in chapter 17-604.1 shall be imposed against the household.

(c) If the household received more cash from the ATM than what was originally requested, the household shall be responsible to report the overage to the ATM owner and to the household's case worker. The household may be liable for any excess amount that was misdispensed by the ATM, and may be subject to the requirements specified in section 17-681-57.

(d) [Food stamp] SNAP benefits to eligible households shall be issued in the form of EBT. The EBT account shall be accessed by any individual who has an EBT card and a valid PIN. [Food stamp] SNAP benefits may be accessed through:

- (1) POS devices at [food stamp] SNAP certified retail stores that have the capability to electronically process EBT transactions; or
- (2) Manual off-line voucher process for those [food stamp] SNAP certified retailers who do not have a POS device but are certified by the EBT contractor to accept EBT transactions. Manual off-line vouchers may also be used by POS merchants when normal EBT electronic processing is not possible. Recipients will not be assessed any transaction fees for purchases made with their [food stamp] SNAP benefits. [Eff 8/01/98; am 10/18/01; am 9/11/03; am and comp] (Auth: HRS §346-14)
(Imp: 7 C.F.R. §274.2(a) and (b), 274.3(a), 274.7)

§17-681-53 EBT cards. (a) EBT cards shall be used to access the EBT cash account and EBT [food stamp] SNAP account.

- (1) EBT cards shall be issued to all recipient households.
- (2) One EBT card shall be issued to the primary payee and a second card may be issued to the alternate payee. Before a second card is issued to an alternate payee, the primary payee shall provide a written statement designating the name of the alternate payee and the program accounts to which the alternate payee will have access. Program benefits to which the household has authorized its alternate payee access shall not be replaced if accessed by the alternate payee.

(b) [The department shall replace a lost or stolen EBT card. The household has the option of receiving the replaced EBT card either over-the-

counter at the unit office or through the mail from customer service. Cards issued at the unit office shall be replaced within three business days following notice from the household. Households opting to have their cards replaced by customer service can expect to receive the cards anywhere between seven to ten days after the request is received by customer service.] The household is entitled to receive a replacement EBT card whenever the household has reported the EBT card lost or stolen. The Department shall replace EBT cards within two business days following notice by the household to the Department that the card has been lost or stolen. In cases where the Department is using centralized card issuance, replacement can be extended to take place within up to five calendar days. In all instances, the Department must ensure that the clients have in hand an active card and PIN with benefits available on the card, within the time frame the Department has identified for card replacement.

(c) The department shall not replace lost or stolen benefits. [Eff 8/01/98; am 10/18/01; am and comp] (Auth: HRS §346-14) (Imp: 7 C.F.R. §274.2(a), and (b), 274.6 (b))

§17-681-54 Delivery of benefits. (a) Households will have their monthly financial assistance, employment and child care payments, and [food stamp] SNAP benefits available on a staggered basis up to the fifth calendar day of each month. Financial and employment and child care assistance households shall have the option of receiving their benefits either through the EBT system or through a direct deposit into a designated financial institution account.

(b) A newly approved applicant household or a household whose financial or employment and child care case is reopened in a new month shall have its cash benefits made available in the EBT system no earlier than three working days after the case has been approved in the HAWI or HANA systems if the application is processed in HAWI or HANA before the last four work days of the month. Households whose cases are reopened or whose applications are approved any time during the

last four work days of a calendar month will receive their first issued benefits no earlier than three working days after the first work day of the next month. Newly approved cash assistance households, who choose the direct deposit option, will receive their initial benefits approximately three workdays later due to the ACH process.

(c) Newly approved [food stamp] SNAP applicant households or households whose [food stamp] SNAP case is reopened shall have its [food stamp] SNAP benefits available the next calendar day after the benefits are authorized in the HAWI system if the application is processed in HAWI before the last four work days of the month. Households whose cases are reopened or whose applications are approved any time during the last four work days of a calendar month will receive their first issued benefits no earlier than the next calendar day after the first work day of the next month.

(d) Financial assistance households, who meet the expedited processing criteria for the financial assistance programs in chapter 17-647, shall have their benefits issued in accordance with the imprest fund issuance procedures in section 17-681-9.

(e) [Food stamp] SNAP households, who meet the expedited service provisions in chapter 17-647, shall have their emergency [food stamp] SNAP benefits issued through the EBT system. [Eff 8/01/98; am 7/16/99; am 10/18/01; am 9/11/03; am and comp]
(Auth: HRS §346-14) (Imp: 7 C.F.R. §274.2
(b),(c),(d))

§17-681-55 REPEALED [R]

§17-681-56 Expungement of benefits. (a) For cash assistance households, benefits shall be expunged after ninety days of no debit activity.

(b) For [food stamp] SNAP households, benefits shall be expunged after twelve months of no debit activity.

(c) Once an EBT account is expunged, the household loses all rights to the balance amount that was remaining in the EBT account.

(d) The department may use the balance in the household's EBT account to offset any outstanding overpayments still owed by the household. The funds that are used to offset any outstanding overpayments are not refundable to the household. [Eff 8/01/98; am 10/18/01; am 9/11/03; am 11/22/08; am and comp] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.18 (g)(2), §274.2 (h)(2))

§17-681-57 Adjustments to EBT [food stamp] SNAP accounts. (a) The department shall make adjustments to an EBT [food stamp] SNAP account after the benefits have been made available to the household to correct an auditable, out-of-balance settlement condition that occurs during the redemption process as a result of a system error. The adjustment may occur after the availability date and may result in either a debit or credit to the household.

- (1) Client initiated adjustments shall be made no later than ten business days from the date the household notifies the department of the error. Business days are defined as calendar days other than Saturdays, Sundays and federal holidays.
- (2) The household has 90 days from the date of the error to notify the department of the need for an adjustment.
- (3) Retailer initiated adjustments shall be made no later than ten business days from the date the error occurred.
- (4) If there are insufficient benefits remaining to cover the entire adjustment, the full adjustment shall be attempted against only the household's next month's benefits.
- (5) The household shall be given, at a minimum, an adequate notice as defined in chapter 17-649. This notification shall be made no later than the date the action is initiated against the household EBT account.
- (6) The household shall have ninety days from the date of the notice to request a fair hearing in accordance with chapter 16-602.1. Should the household dispute the adjustment and a

request is made within fifteen calendar days of the notice, no further action shall be taken to debit the household's EBT account until the fair hearing decision is rendered. If no fair hearing is requested within fifteen calendar days, the adjustment shall be made to credit the retailer's account.

(b) Under certain circumstances when manual off-line voucher transactions occur due to the inaccessibility of the host computer and the transaction is rejected due to insufficient funds in the household's account, the department may permit the re-representation of the transaction during subsequent months.

- (1) Re-representation of manual vouchers when there are insufficient funds in the EBT account to cover the manual transaction may be permitted only under the following conditions:
 - (a) The manual transaction occurred because the host computer was down and authorization was obtained by the retailer for the transaction; or
 - (b) The manual transaction occurred because telephone lines were down.
- (2) Re-representation of manual vouchers shall not be permitted when the EBT card, magnetic stripe, PIN pad, card reader, or POS terminal fails and telephone lines are operational. Manual transactions shall not be utilized to extend credit to a household via re-representation when the household's EBT account balance is insufficient to cover the planned purchase.
- (3) The department shall debit the benefit allotment of a household during the first month following the insufficient funds transaction in the amount of \$50 in the first month and the greater of \$10 or 10 per cent of the allotment in subsequent months until the total balance owed is paid-in-full. If the monthly allotment is less than \$50, the department shall debit the account for \$10." [Eff 3/04/04; am and comp]
(Auth: HRS §346-14) (Imp: 7 C.F.R. 274.2(g))

4. Material, except source notes, to be repealed is bracketed. New material is underscored.

5. Additions to update source notes to reflect these amendments and compilation are not underscored.

6. These amendments and compilation of chapter 17-681, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.